

04:29PM

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOSEPH BONGIOVANNI,

Defendant.

Case No. 1:19-cr-227  
(LJV)

February 20, 2024

TRANSCRIPT EXCERPT - EXAMINATION OF MICHAEL O'ROURKE - DAY 1  
BEFORE THE HONORABLE LAWRENCE J. VILARDO  
UNITED STATES DISTRICT JUDGE

APPEARANCES:

TRINI E. ROSS, UNITED STATES ATTORNEY  
BY: JOSEPH M. TRIPI, ESQ.  
NICHOLAS T. COOPER, ESQ.  
CASEY L. CHALBECK, ESQ.

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And

UNITED STATES DEPARTMENT OF JUSTICE  
BY: JORDAN ALAN DICKSON, ESQ.

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For the Plaintiff

**SINGER LEGAL PLLC**

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And

**LAW OFFICES OF PARKER ROY MacKAY**

BY: PARKER ROY MacKAY, ESQ.

3110 Delaware Avenue  
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For the Defendant

PRESENT:

BRIAN A. BURNS, FBI Special Agent  
MARILYN K. HALLIDAY, HSI Special Agent  
KAREN A. CHAMPOUX, USA Paralegal

1 **LAW CLERK:** REBECCA FABIAN IZZO, ESQ.

2 **COURT DEPUTY CLERK:** COLLEEN M. DEMMA

3 **COURT REPORTER:** ANN MEISSNER SAWYER, FCRR, RPR, CRR  
4 Robert H. Jackson Federal Courthouse  
5 2 Niagara Square  
6 Buffalo, New York 14202  
7 Ann\_Sawyer@nywd.uscourts.gov

8 \* \* \* \* \*

9 (Excerpt commenced at 4:29 p.m.)

10 (Jury is present.)

11 **THE COURT:** The government can call its next witness.

12 **MR. TRIPI:** I hope we do better this time, Judge.

13 Mike O'Rourke.

14  
15 **M I C H A E L O ' R O U R K E**, having been duly called and  
16 sworn, testified as follows:

17 **MR. TRIPI:** May I inquire, Your Honor?

18 **THE COURT:** You may.

19  
20 **DIRECT EXAMINATION BY MR. TRIPI:**

21 Q. Good afternoon. Mr. O'Rourke, are you presently retired  
22 from law enforcement?

23 A. Technically, no. I'm employed by the Erie County  
24 District Attorney's Office as a criminal investigator.

25 Q. Prior to the -- how long have you been in that job?

04:30PM 1 A. About a year and a half.

04:30PM 2 Q. Prior to that, who was your employer?

04:31PM 3 A. It was the New York State Police.

04:31PM 4 Q. Did you retire from that agency?

04:31PM 5 A. Yes, I did.

04:31PM 6 Q. How long had you been a member of the New York State

04:31PM 7 Police?

04:31PM 8 A. Approximately 29 and a half years.

04:31PM 9 Q. And did you grow up in the Buffalo area?

04:31PM 10 A. Yes, I did.

04:31PM 11 Q. Can you tell us what your different -- well, what

04:31PM 12 different schools did you go to in the area?

04:31PM 13 A. I started going to elementary school in Grand Island, but

04:31PM 14 then I went to Saint Mark's grammar school from second

04:31PM 15 through eighth grade. Went to Canisius High School. Went to

04:31PM 16 Sienna College for two years in Albany. And then ultimately

04:31PM 17 graduated from the University of Buffalo.

04:31PM 18 Q. And what was your degree when you graduated?

04:31PM 19 A. Political science.

04:31PM 20 Q. And, so, then you joined the New York State Police not

04:31PM 21 too long after that?

04:31PM 22 A. I actually got my degree when I was on the New York State

04:32PM 23 Police. I joined the State police in 1990.

04:32PM 24 Q. What different positions have you held with the State

04:32PM 25 police?

04:32PM 1 A. I was a uniform patrolman. I was uniform sergeant. I  
04:32PM 2 became an investigator, assigned to Community Narcotics  
04:32PM 3 Enforcement Team, and then I was a senior investigator, which  
04:32PM 4 was a supervisor in the Community Narcotics Enforcement Team.

04:32PM 5 Q. So your last two spots were involved with the Community  
04:32PM 6 Narcotics Enforcement Team; is that right?

04:32PM 7 A. That's correct. Approximately, yeah, 16 years I was in  
04:32PM 8 narcotics.

04:32PM 9 Q. What type of cases did that unit work?

04:32PM 10 A. When I first started, it entailed a lot of street-level  
04:32PM 11 undercover work. Approximately 250 low level -- from street  
04:32PM 12 dealers, and then it kind of developed into where I was  
04:32PM 13 handling the cases myself, other people were doing the  
04:33PM 14 undercovers and I would commence the investigations, see them  
04:33PM 15 through, through the prosecution.

04:33PM 16 We ultimately got into doing some wiretaps with the  
04:33PM 17 Attorney General's Office and the Drug Enforcement  
04:33PM 18 Administration. And that kind of developed into a little bit  
04:33PM 19 of some, a bigger, a little bigger high level cases.

04:33PM 20 Q. Both as an investigator and a supervisor doing that type  
04:33PM 21 of work, are you familiar with building cases from the street  
04:33PM 22 level, up?

04:33PM 23 A. Yes.

04:33PM 24 Q. Among the ways you do that, are you familiar with  
04:33PM 25 confidential informants?

04:33PM 1 A. Yes.

04:33PM 2 Q. And just generally speaking, how are confidential  
04:33PM 3 informants used in building cases up?

04:33PM 4 A. Well, a confidential informant comes to us either from an  
04:33PM 5 arrest, from a uniform member or another agency. We often  
04:33PM 6 use them if they were caught buying drugs or they were  
04:34PM 7 possessing drugs. If they wanted to work, maybe help  
04:34PM 8 themselves out, we would bring them in as a confidential  
04:34PM 9 informant.

04:34PM 10 Often with us, we would have an informant maybe buy drugs  
04:34PM 11 several times by himself. If we could introduce an  
04:34PM 12 undercover, we did. And then we would kind of put the  
04:34PM 13 informant off to the side and let our undercover do the work  
04:34PM 14 after that.

04:34PM 15 Q. Are informants important in your view in building larger  
04:34PM 16 drug cases?

04:34PM 17 A. They're critical, yes.

04:34PM 18 Q. Other than people getting in trouble, are there other  
04:34PM 19 ways that you're aware of that people become an informant?  
04:34PM 20 For example, are sometimes people paid, things like that?

04:34PM 21 A. There are various reasons. Ours was usually because  
04:34PM 22 someone was under arrest or was in trouble. But there would  
04:34PM 23 be people that would do it for payment. And I know there are  
04:35PM 24 people that would do it for other reasons, maybe out of spite  
04:35PM 25 or to get back at somebody. We generally wouldn't use those

1 type of people, we'd have to vet those.

2 Q. Now, while you were -- the last 16 years of your career,  
3 so investigator in Community Narcotics Enforcement Team and  
4 then a supervisor of that team, did you -- did you often work  
5 with other agencies on cases?

6 A. We worked with many agencies all over Western New York  
7 and Rochester. Our unit kind of expanded out into Rochester  
8 and the Southern Tier.

9 Q. What local federal agencies did you interact with?

10 A. Most often, it was the DEA, the Drug Enforcement  
11 Administration, their task force. They had an agents group  
12 we worked with occasionally.

13 They had a tactical diversion squad that dealt with  
14 prescription pills and doctors.

15 Occasionally, with the FBI, we worked with the Safe  
16 Streets Task Force.

17 We also worked with HSI, Homeland Security, and their  
18 investigations.

19 Q. On occasion, did the New York State Police work with law  
20 enforcement from other states?

21 A. Yes, on occasion.

22 Q. Can you give just a brief example of how that would work?

23 A. Usually, if an investigation from an another state came  
24 into New York for some reason, they would contact an agency  
25 in New York, a lot of times it was the State police from

04:36PM 1 another state, they would contact State police here, whatever  
04:36PM 2 regional area, Western New York. It was often Community  
04:36PM 3 Narcotics Enforcement Team for the State police.

04:36PM 4 Q. Now, I'm going to direct your attention back to  
04:36PM 5 November 25th, 2012. At that point in your career, are you  
04:37PM 6 an investigator in CNET, Community Narcotics Enforcement  
04:37PM 7 Team, or are you the supervisor?

04:37PM 8 A. I'm an investigator.

04:37PM 9 Q. Okay. As of that date, did you and your group  
04:37PM 10 participate in something called a controlled delivery of  
04:37PM 11 marijuana that resulted in the arrest of an individual named  
04:37PM 12 Damien Abbate and Wayne Anderson that day?

04:37PM 13 A. Yes.

04:37PM 14 Q. And can you tell this jury how that came about? Can you  
04:37PM 15 explain what happened leading up to that?

04:37PM 16 A. Well, the Illinois State Police had a policy where if  
04:37PM 17 they did a drug interdiction on the road, stopped the car  
04:37PM 18 with a quantity of narcotics or marijuana, they had a policy  
04:37PM 19 with this one particular unit, they would like to see the  
04:37PM 20 package or the -- or the narcotics go through to its ultimate  
04:37PM 21 destination.

04:37PM 22 So in this case, this -- there was an arrest by the  
04:37PM 23 Illinois State Police Drug Interdiction Unit. And the  
04:38PM 24 package was -- the delivery was destined for Western  
04:38PM 25 New York, Buffalo area. So they contacted the State police.

04:38PM 1 We had worked with them once before. I was not present on  
04:38PM 2 the previous one, but I was familiar with how they did  
04:38PM 3 things. So they contacted the State Police Community  
04:38PM 4 Narcotics Enforcement Team, again, and wanted to see this  
04:38PM 5 delivery through to its ultimate destination with a  
04:38PM 6 controlled delivery.

04:38PM 7 Q. And so you used the term there, controlled delivery.  
04:38PM 8 Let's just define that for the jury. What is a controlled  
04:38PM 9 delivery?

04:38PM 10 A. Controlled delivery is where we have a quantity of  
04:38PM 11 narcotics, and it's going to a destination. However,  
04:38PM 12 everything about it is controlled.

04:38PM 13 We know where the package is. In essence, the police are  
04:38PM 14 delivering the package under the guise of either using an  
04:39PM 15 informant or undercover officers. Either way, the narcotics  
04:39PM 16 end up at its ultimate destination. And then once it's taken  
04:39PM 17 possession of by the suspects, a search warrant is executed  
04:39PM 18 and suspects are under arrest, placed under arrest, and the  
04:39PM 19 narcotics are secured.

04:39PM 20 Q. Were you working already, or were you called in to help  
04:39PM 21 in this matter?

04:39PM 22 A. I was called in, I believe, the night before and  
04:39PM 23 requested to come in very early on that day, which was a  
04:39PM 24 Sunday.

04:39PM 25 Q. And when you came in, were you briefed up on the matter



1 by other members of the State police?

2 A. Yes, there was a senior investigator at the time who was  
3 working closely with the Illinois State Police and the  
4 informants. We didn't have direct contact with the  
5 informants, they usually used to try and keep those separate  
6 from any undercovers.

7 And all our officers, investigators at that time, were  
8 undercover officers, but, we were given direct information  
9 about what was going on, what we wanted to do, what our  
10 ultimate goal was.

11 Q. So as you understand it, did the Illinois State Police  
12 keep the identity of that informant to themselves?

13 A. This were two informants, a male and a female. And they  
14 were -- they kept the identities to themselves, and our  
15 senior --

16 **MR. MacKAY:** Judge, I'm going to object to the lack  
17 of personal knowledge about what happened in Illinois to the  
18 degree he can answer it or not.

19 **MR. TRIPI:** I characterized it as his understanding  
20 based on the briefing he attended, Your Honor.

21 **THE COURT:** How would he know unless somebody told  
22 him, so it's got to be hearsay in some way or another, doesn't  
23 it?

24 **MR. TRIPI:** Well, it explains his subsequent actions,  
25 but if you want me to move on, Judge, that's fine.

24        So, that was -- they were gonna deliver it to an address  
25        in Buffalo, and leave. As soon as they left, a SWAT team was

1 gonna execute a search warrant for that residence.

2 Q. And was this a search warrant that was already obtained?

3 A. That's correct.

4 Q. Okay. And what was the target location of this

5 controlled delivery in the operation that you've just

6 explained?

7 A. 17 Elmview in the City of Buffalo. It's off Elmwood near

8 McKinley High School.

9 Q. Do you recall if it was an upper or a lower for the

10 delivery?

11 A. I remember an upper. I believe it was an upper.

12 Q. And do you remember the individual associated with that

13 residence, the name?

14 A. There was a -- who we believed to be an owner of the

15 residence before we delivered it.

16 Q. Who was that?

17 A. That was a Wayne Anderson.

18 Q. And can you now take the jury to the moment of the

19 execution of that controlled delivery and the subsequent

20 search warrant? Can you tell the jury what happened?

21 A. Well, the informants leave in their vehicle. The SWAT

22 team executes a search warrant that we had. They secure two

23 individuals in the place, and the marijuana, of course. Then

24 they call the investigators in.

25 And we do a search. And we secure the defendants,

04:43PM 1 commence a search, interview the defendants. And then  
04:43PM 2 ultimately, the two defendants were transported downtown to  
04:44PM 3 get booked. I transported one of the defendants,  
04:44PM 4 Mr. Anderson.

04:44PM 5 Q. Before I get to your transporting Mr. Anderson, other  
04:44PM 6 than the marijuana, do you remember what else was seized, if  
04:44PM 7 anything?

04:44PM 8 A. I believe some quantity of U.S. currency. And other than  
04:44PM 9 that, I don't recall. Besides that.

04:44PM 10 Q. What was your assignment at that scene? What was your  
04:44PM 11 job?

04:44PM 12 A. I was told to search, like, the living room area, and  
04:44PM 13 then kind of keep an eye on Mr. Anderson. He was handcuffed.  
04:44PM 14 And -- interview him, just the basics. What's your name? Do  
04:44PM 15 you own the place? Et cetera. And then transport him  
04:45PM 16 downtown.

04:45PM 17 Q. And when you say "transport him downtown," where do you  
04:45PM 18 mean?

04:45PM 19 A. I mean at that time it was the Erie County Holding Center  
04:45PM 20 where he was booked. We fill out a booking sheet, what the  
04:45PM 21 charges are. And -- and then they'll take care of the  
04:45PM 22 fingerprint and photograph.

04:45PM 23 Q. And did you in fact transport Mr. Anderson?

04:45PM 24 A. I did.

04:45PM 25 Q. Were you alone or with a partner, if you recall?

04:45PM 1 A. Definitely with a partner, I just can't recall who it  
04:45PM 2 was.

04:45PM 3 Q. In a situation where someone's in custody, would protocol  
04:45PM 4 have been to have someone with you?

04:45PM 5 A. Absolutely.

04:45PM 6 Q. Okay. So you're relying on that protocol for your  
04:45PM 7 testimony?

04:45PM 8 A. Yes.

04:45PM 9 Q. Now, in that situation, did you have -- did you have any  
04:45PM 10 objectives in mind regarding your interactions with  
04:45PM 11 Mr. Anderson while you were transporting him?

04:45PM 12 A. Pretty much the same objective we always have with a  
04:46PM 13 defendant in that situation, which is to interview him and  
04:46PM 14 see if he can provide any further information that would  
04:46PM 15 further the investigation. If there were any other  
04:46PM 16 defendants, or other people that may have been involved that  
04:46PM 17 weren't at the house. Maybe who was the marijuana going to.  
04:46PM 18 Was it just for him to sell, or was there actually some other  
04:46PM 19 people involved.

04:46PM 20 Q. So did you have a routine practice as it related to  
04:46PM 21 attempting to secure cooperation from individuals who were  
04:46PM 22 under arrest in significant cases?

04:46PM 23 A. Yes. Yes.

04:46PM 24 Q. And was that, what you were just describing, part of your  
04:46PM 25 routine practice?

04:46PM 1 A. Yes. And if he would have agreed or said he would be  
04:46PM 2 interested in cooperating, we would have arranged to maybe  
04:46PM 3 meet with him at a later date after he either bailed out, or  
04:46PM 4 possibly interviewed him in jail, with an attorney, or set  
04:47PM 5 something up where he would have been, you know, interviewed  
04:47PM 6 again if he wanted to provide some knowledge and cooperate.

04:47PM 7 Q. And describe your specific interaction with Mr. Anderson  
04:47PM 8 regarding the topic of cooperation.

04:47PM 9 A. I gave him the -- the usual questions about whether he  
04:47PM 10 wanted to cooperate and help himself. And he basically  
04:47PM 11 declined right from the beginning and said he wanted to speak  
04:47PM 12 to an attorney. And so we kind of ended it right there.

04:47PM 13 Q. By end it right there, you proceeded to book him?

04:47PM 14 A. Took him right downtown. I believe I gave him my phone  
04:47PM 15 number, which I always do.

04:47PM 16 Q. Do you remember what your number was at the time?

04:47PM 17 A. I do.

04:47PM 18 Q. Can you tell us?

04:47PM 19 A. 716-570-4548.

04:47PM 20 Q. What this was last part?

04:47PM 21 A. 4548.

04:47PM 22 Q. Thank you. Now, following that day, by "that day" I mean  
04:48PM 23 the day that Mr. Anderson is taken into custody and you  
04:48PM 24 booked him, did anyone from another law enforcement agency  
04:48PM 25 reach out to you?

04:48PM 1 A. Yes.

04:48PM 2 Q. Who did?

04:48PM 3 A. Agent Joseph Bongiovanni of the Drug Enforcement  
04:48PM 4 Administration.

04:48PM 5 Q. And do you see him in court today?

04:48PM 6 A. I do.

04:48PM 7 Q. Can you please point to him and describe something he's  
04:48PM 8 wearing?

04:48PM 9 A. He's in the middle of these three gentlemen at the  
04:48PM 10 defense table. He has a maroon-color tie on.

04:48PM 11 **MR. TRIPI:** Your Honor, may the record reflect the  
04:48PM 12 witness has identified Mr. Bongiovanni.

04:48PM 13 **THE COURT:** Yes, it does.

04:48PM 14 **MR. TRIPI:** Thank you.

04:48PM 15 **BY MR. TRIPI:**

04:48PM 16 Q. Mr. O'Rourke, how did Mr. Bongiovanni contact you?

04:48PM 17 A. I believe it was telephonically at first, and he wanted  
04:48PM 18 to meet regarding the arrest and come over to our office,  
04:48PM 19 which was at the Mahoney State Building, 65 Court Street.

04:48PM 20 Q. I'll ask you at about the conversation in just a moment,  
04:49PM 21 but before I ask but that telephonic contact, can you tell us  
04:49PM 22 how long after you booked Mr. Anderson, Mr. Bongiovanni  
04:49PM 23 called you?

04:49PM 24 A. I don't remember exactly, but I would say within 48  
04:49PM 25 hours.

04:49PM 1 Q. And now can you tell the jury, as best you recall it,  
04:49PM 2 what your conversation was with Mr. Bongiovanni when he  
04:49PM 3 called you on the phone?

04:49PM 4 A. I really don't recall. But I can guess, because I've had  
04:49PM 5 dozens of those calls with many different officers and  
04:49PM 6 investigators from different agencies.

04:49PM 7 Q. Do you recall testifying in the grand jury in this  
04:49PM 8 matter?

04:49PM 9 A. Yes.

04:49PM 10 Q. Do you think looking at that might refresh your  
04:49PM 11 recollection as to this phone call?

04:49PM 12 A. Yes.

04:49PM 13 Q. Okay. I'm going to show you Government Exhibit 3510B.  
04:50PM 14 I'm going to ask you to read page 9, and when you're done,  
04:50PM 15 look up, okay?

04:50PM 16 A. Yes.

04:50PM 17 **MR. TRIPI:** May the record reflect I've handed that  
04:50PM 18 exhibit up to the witness.

04:50PM 19 May the record reflect the witness has completed  
04:51PM 20 reading the document, and I've removed it.

04:51PM 21 **BY MR. TRIPI:**

04:51PM 22 Q. Mr. O'Rourke, did that refresh your recollection  
04:51PM 23 regarding the conversation you had over the telephone with  
04:51PM 24 Mr. Bongiovanni?

04:51PM 25 A. Yes.



04:51PM 1 Q. Please tell the jury what that conversation was.

04:51PM 2 A. Well, he wanted to meet with me to discuss the Wayne  
04:51PM 3 Anderson arrest and his cooper -- Wayne Anderson's  
04:51PM 4 cooperation in the investigation, and he wanted to meet  
04:51PM 5 relatively quickly.

04:51PM 6 Q. And was that a short phone conversation?

04:51PM 7 A. Yes.

04:51PM 8 Q. Did you make arrangements to meet?

04:51PM 9 A. Yes.

04:51PM 10 Q. And did a meeting occur after that phone call?

04:51PM 11 A. Yes, it did.

04:51PM 12 Q. When in proximity to the phone call did the meeting occur  
04:51PM 13 if you know?

04:51PM 14 A. I would say within 24 hours. It was quick.

04:51PM 15 Q. Okay. So the phone call and the meeting all occurred  
04:51PM 16 within 72 hours?

04:51PM 17 A. Yes.

04:51PM 18 Q. Okay. Can you describe that meeting that occurs  
04:52PM 19 subsequent to the phone call?

04:52PM 20 A. Yes. Agent Bongiovanni and another task force officer,  
04:52PM 21 Joe Palmieri, came over to our office at 65 Court Street, and  
04:52PM 22 we had a meeting regarding the arrest.

04:52PM 23 Q. Okay. So you just said a couple of things there. Just,  
04:52PM 24 Task Force Officer Joe Palmieri, who is that?

04:52PM 25 A. He was a detective from the Town of Tonawanda that was

04:52PM 1 assigned to the DEA task force as a TFO, or task force  
04:52PM 2 officer.

04:52PM 3 Q. At that time, who did Task Force Officer Palmieri  
04:52PM 4 typically work with, as you understood it?

04:52PM 5 A. Typically worked with Agent Bongiovanni.

04:52PM 6 Q. Okay. And I think you mentioned 64 Court Street. What's  
04:52PM 7 located there?

04:52PM 8 A. 65 Court Street.

04:53PM 9 Q. Sorry.

04:53PM 10 A. It's the old Mahoney State Office Building.

04:53PM 11 Q. Did you have office space there?

04:53PM 12 A. Yeah, we did, on the fifth floor.

04:53PM 13 Q. Okay. Describe what happens at that meeting, please.

04:53PM 14 A. At the meeting, Agent Bongiovanni and Task Force Officer  
04:53PM 15 Joe Palmieri asked about the arrest, and wanted to know if  
04:53PM 16 they would be able to pursue the investigation, take it from  
04:53PM 17 their end, and maybe take it up to a higher level federally.

04:53PM 18 They said they believed it to be tied to Organized Crime.  
04:53PM 19 And as often is the case, we said of course, if you guys can  
04:53PM 20 turn it into something bigger than -- at that time with the  
04:53PM 21 New York State charges, it was a C felony no matter --  
04:53PM 22 anything over 10 pounds, whether it was 10 or a thousand, it  
04:54PM 23 was still a C felony. So if they could take it to a --  
04:54PM 24 something more significant federally, and see if there was  
04:54PM 25 some other people involved, they said Organized Crime.

04:54PM 1 **MR. MacKAY:** Judge, I'm going to object to the use of  
04:54PM 2 "they" here. It's hearsay. It's not clear who is  
04:54PM 3 specifically saying that --  
04:54PM 4 **MR. TRIPI:** I'll clear it up.  
04:54PM 5 **MR. MacKAY:** -- and whether that's admissible as to  
04:54PM 6 both.  
04:54PM 7 **THE COURT:** Yeah, so -- so why don't you clear it up.  
04:54PM 8 **MR. TRIPI:** Yeah.  
04:54PM 9 **BY MR. TRIPI:**  
04:54PM 10 Q. Who was doing the talking, Palmieri or Bongiovanni?  
04:54PM 11 A. My recollection is primarily Agent Bongiovanni.  
04:54PM 12 Q. Okay. Now --  
04:54PM 13 **THE COURT:** So when you said "they," you were  
04:54PM 14 referring to Agent Bongiovanni?  
04:54PM 15 **THE WITNESS:** I was referring to both of them, but  
04:54PM 16 primarily it was Agent Bongiovanni doing the talking.  
04:54PM 17 **BY MR. TRIPI:**  
04:54PM 18 Q. Okay. And they were together, correct?  
04:55PM 19 A. Yes, they were.  
04:55PM 20 Q. And what, if anything, did Mr. Bongiovanni say about  
04:55PM 21 wanting to use Mr. Anderson as an informant?  
04:55PM 22 A. I believe he wanted to sign him up, or he would be  
04:55PM 23 looking to sign him up, was going to attempt to sign him up  
04:55PM 24 as an informant.  
04:55PM 25 Q. Now, based on your experience, in order to attempt or to

1 sign someone up as an informant, do you have to generally  
2 speak with that individual about doing that?

3 A. Yes.

4 Q. Based on your conversation with Bongiovanni and Palmieri,  
5 what was your understanding of how Anderson would be utilized  
6 by Special Agent Bongiovanni?

7 A. I didn't know specifically how they would use him, but he  
8 would be signed up as a confidential informant with the Drug  
9 Enforcement Administration. Typically, obviously, these  
10 charges that he had pending --

11 **MR. MacKAY:** Objection to speculation.

12 **THE COURT:** Yeah, sustained.

13 **BY MR. TRIPI:**

14 Q. Did you believe that DEA Special Agent Bongiovanni was  
15 going to turn this into something larger?

16 A. Yes.

17 Q. At any point in your discussion, did Special Agent  
18 Bongiovanni disclose to you any personal relationship he had  
19 with Wayne Anderson?

20 A. No.

21 Q. In your experience working in the Buffalo area, if an  
22 investigator has a personal relationship with someone, should  
23 they be working on that person's case?

24 **MR. MacKAY:** Objection to relevance, particularly to  
25 agency.



evening recess right now. Please remember my instructions about not discussing any aspect of the case with anyone. Don't use tools of technology to research the case or to communicate about the case. Don't read, or watch, or listen to any news coverage about the case if there is any while the case is in progress. And please remember not to make up your mind until all the evidence has been submitted to you and you begin your deliberations.

We'll see you at 9:30 tomorrow morning. Everybody get a good night's sleep, and drive carefully. Thank you.

(Witness excused at 4:58 p.m.)

**THE COURT:** Anything we need to put on the record from the defendant?

**MR. MacKAY:** No, Your Honor.

**THE COURT:** From the government?

**MR. TRIPI:** No, Your Honor.

**THE COURT:** We'll see you folks tomorrow morning.

(Excerpt concluded at 4:58 p.m.)

\* \* \* \* \*

**CERTIFICATE OF REPORTER**

In accordance with 28, U.S.C., 753(b), I certify that these original notes are a true and correct record of proceedings in the United States District Court for the Western District of New York on February 20, 2024.

s/ Ann M. Sawyer  
Ann M. Sawyer, FCRR, RPR, CRR  
Official Court Reporter  
U.S.D.C., W.D.N.Y.